



# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/618,124      | 07/11/2003  | Daniel Roy Stewart   |                     | 4092             |

7590 08/01/2006  
Daniel Roy Stewart  
817 Simond: Avenue  
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EXAMINER

ELKINS, GARY E

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/618,124

Examiner

Gary E. Elkins

Applicant(s)

STEWART, DANIEL ROY

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 20 March 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☒ B. New paragraph(s) should not be underlined.
  - ☒ C. Other See the attached page.
- ☒ 2. Abstract:
- ☒ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or a supplemental amendment.

*Gary E. Elkins*  
**GARY E. ELKINS**  
**PRIMARY EXAMINER**  
**ART UNIT 3727**

~~Legal Instruments Examiner (if applicable)~~

~~Telephone No.~~

***Explanatory Attachment to Notice of Non-Compliant Amendment***

Effective 30 July 2003, amendments filed under 37 CFR 1.121 must be filed using the following rules:

1. When there is an amendment to the specification, the location of the paragraph or section to be deleted, replaced, or where a new paragraph or section is to be added, must be unambiguously identified. Text of a new paragraph or section should not be underlined. Deletion of a paragraph or section must only include an instruction to delete, and the location of the paragraph or section. A replacement paragraph or section must be a marked-up version showing the changes. A clean version of any replacement paragraph or section must *not* be submitted in addition to a marked-up version, except when applicant submits a substitute specification.

The amendment to the specification filed 20 March 2006 is non-compliant insofar as:

(1) At least some of the replacement sections do not correspond exactly to the sections as set forth in the original specification. For example, the replacement paragraph 2 under Brief Description is inaccurate. In line 5, the numeral “27” was not present in the original specification and the word “provide” in the original specification is no longer present. In line 6, a comma has been omitted which was present in the original specification. In line 7, the word “or” has been added but is not underlined. If a replacement section is provided as an amendment, the replacement must correspond exactly, i.e. the lined through deletions and unamended words and punctuation must be identical to that previously submitted.

(2) The phrases “continue to delete sentences until beginning of paragraph 4”, “continue to delete following sentences until end of paragraph 4” and “continue to delete the following

sentences until end of paragraph 5” as part of the replacement paragraphs are confusing. Each instruction within an amendment should be separated from the actual replacement sections for clarity with the actual replacement section beginning on a separate line from the instructions or otherwise clearly delineated from the instructions. Also, if lines or paragraphs are to be deleted in their entirety, the deletion should not begin as a strikethrough and then include an instruction to continue the deletion. The deletion of a paragraph or section (or line) must only include an instruction to delete and the location.

(3) The new paragraphs inserted under the Detailed Description are incorrectly underlined. The designation of the paragraphs as replacement paragraphs is inaccurate insofar as the entire sections are being inserted as opposed to an amendment to the original text. The text of a new paragraph or section should not be underlined.

Given the large number of amendments to the specification, it is suggested that a substitute specification be provided incorporating all the desired amendments without underlining, strikethrough, etc. If a substitute specification is submitted, a marked-up copy including underlining, strikethrough, etc. is required for review purposes (37 CFR 1.125(c), 608.01(q)). A substitute specification would eliminate the need to provide instructions for the insertions and deletions and would provide a complete unmarked specification within the application.

2. When there is an amendment to the abstract, if the changes are minor in nature, submit a replacement abstract with markings to show all changes relative to the immediately prior version. If the abstract is being substantially rewritten, submit a new abstract in clean text (no markings)

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accompanied by an instruction to cancel the previous abstract. Any new or replacement abstract must be submitted on a separate sheet (37 CFR 1.72).

The amendment to the abstract filed 20 March 2006 is non-compliant insofar as a replacement abstract was not submitted on a separate sheet.